After anxious consideration of the various cases on both sides of what appears to be a rather thin dividing line, I feel that I am not at liberty to give an interpretation to the word "meeting" which is against the weight of authority. In *Oxted Motors*, where the only two shareholders of the company met and passed a resolution for voluntary winding up, the irregularity was in regard to the statutory requirements as to notice which all the shareholders present at a meeting were held entitled to waive. In *Express Engineering Works* all the five shareholders of the company met at a board meeting and resolved on the issue of debentures; by the articles of association they were prohibited as directors from voting thereon, but it was held that the meeting might be considered a general meeting of shareholders and it was competent to all the shareholders to waive all formalities as regards notice thereof. And in *Parker and Cooper*, Astbury J. based his judgment on a passage in the judgment of Lord Davey in *Salomon* v. *Salomon & Co.* [8] to the effect that a company is bound in a matter which is *intra vires* by the unanimous agreement of all the corporators. Finally, in *East* v. *Bennett Brothers Ltd.* one member with all the shares of a class, namely, the preference shareholders, was held to constitute the quorum for a meeting of that class. In the first two cases above-mentioned there were actual meetings of all the shareholders together and the Court was able to treat them as general meetings. In *Parker and Cooper* the Court held that, though there was no semblance of a formal meeting, yet the unanimous asset of all the individual corporators to a transaction that was *intra vires* the company made it unnecessary that they should hold a meeting in one room or one place to express that assent simultaneously. There the debenture was issued with the assent of every shareholder and the question was whether the liquidator ought to succeed in obtaining a declaration that the debenture and the resolution authorising it were inoperative, so that the creditors might get an advantage of the defendant Reading's £1,750 and deprive him of the security on which he made that advance. The answer of Astbury J. was in these words:

> "If company law enables the entirety of the corporators to ratify an irregular *intra vires* transaction why should this not protect an honest *bona fide* transaction entered into for the benefit of the company."

In the present case, no question arises as to the validity of past acts, but the question is raised *in limino* whether a one-man meeting constituted a proper quorum. I am less reluctant to answer in the negative because no injustice will be caused to anyone by my decision, which accords with authority. There can be no estoppel against the operation of a statute. Nor can any argument *ab inconvenienti* be entertained, since subsection (2) of section 116 provides a solution.

I accordingly give leave to Raper to intervene and make the declaration as prayed.

He will have to pay all the costs of the applicant of and incidental to these proceedings and indemnify and reimburse his co-director all costs and expenses properly incurred by the other in the abortive winding up of the company.

Order accordingly.

Solicitors: *Bannon & Bailey; Rodyk & Davidson.*

THE PRUDENTIAL ASSURANCE CO. LTD. v. KOH NAM YONG

[O. C. J. (Rose C.J.) November 14, 1962]

[Singapore — Originating Motion No. 32 of 1962]

Practice and Procedure — Appeal — Leave to — Clerks Employment Ordinance, 1957, s.36 — Industrial Relations Ordinance, 1960, ss.40 and 50(1) — Choice of alternative remedies — Applicant to pursue path chosen by respondent — Costs.

Employment — Collective agreement — Registered under Industrial Relations Ordinance, 1960, s.23 — Dispute arising from — Choice of alternative remedies.

The respondent, an employee of the applicants made a claim before the Commissioner for Labour for additional sums of money he alleged to be due to him under section 36 of the Clerks Employment Ordinance for work on public holidays. The sum involved was under $200. The Assistant Commissioner for Labour who heard the case found in favour of the employee. By this application the applicants sought leave of the Court to appeal against the decision of the Assistant Commissioner notwithstanding that the amount involved was under $200. (see section 54 of the Clerks Employment Ordinance and section 20(1) of the Courts Ordinance). The applicants' grounds were that the issue involved many persons other than the parties and they sought to pursue the appeal as a test case.

The respondent was a member of a union that had entered into a collective agreement with the employer; this collective agreement was registered pursuant to section 23 of the Industrial Relations Ordinance (see Singapore *Gazette Supplement* No. 197 of September 14, 1962). This agreement contained provision that clerks will be remunerated for work on gazetted holidays in accordance with the Clerks Employment Ordinance. It also contained provision that any dispute between the union and the company shall be referred to the President of the Industrial Arbitration Court.

The respondent resisted the application for leave to appeal on the ground that the matter should be referred to the President of the Industrial Arbitration Court by reason of the referee clause. A properly registered collective agreement was deemed to be an award of the Industrial Arbitration Court by virtue of section 24 of the Industrial Relations Ordinance. It was contended for the respondent that an interpretation of the collective agreement (and of any statute incorporated into it) should properly be made under section 40 of the Industrial Relations Ordinance to the Industrial Arbitration Court.

It was also argued for the respondent that should the applicants be given leave to appeal they should be ordered to pay the respondents costs of the appeal irrespective of the result on the appeal. It was further contended that appeal to the High Court would entitle the appellants to carry the matter up to the Privy Council involving the respondent in expense beyond his limited means.

Held: (1) the matter being one of importance and the respondent having elected to proceed by one of two

alternative channels, the applicants ought to be given leave to appeal to pursue the path that the respondent himself has chosen.

(2) the applicants should bear, in any event, the costs incurred by the respondent up to and including the costs of the appeal for which leave was given.

The following cases were cited in argument on the question of costs:—

Cases referred to:—

(1) *Great Western Rly. Co.* v. *Wills* [1917] A.C. 148, 151.

(2) *Revill* v. *Bethell* (1918), 34 T.L.R. 323, 324.

(3) *Starkey* v. *Railway Executive* [1951] 2 All E.R. 902.

ORIGINATING MOTION.

Punch Coomaraswamy for the applicants.

David Marshall for the respondent.

Cur. Adv. Vult.

Rose C.J.: This is an application for leave to appeal from a decision of an Assistant Commissioner for Labour.

The matter is covered by section 20(1) of the Courts Ordinance and, the sum involved being less than $200, leave is required.

The respondent elected to submit the matter at issue between him and the applicants to the Assistant Commissioner for Labour who determined the matter in pursuance of the powers conferred on him by section 50(1) of the Industrial Relations Ordinance (No. 20 of 1960).

The respondent himself in his complaint which is exhibited in these proceedings stated that he regarded the matter as a test case. The applicants agree with this view and contend therefore that this is a proper matter for the granting of leave to appeal.

Learned counsel for the respondent contends, however, that, as section 40 of the Industrial Relations Ordinance provides an alternative remedy of direct recourse to the Industrial Arbitration Court where an interpretation of an award is in question, there are no special circumstances which would justify the granting of leave to appeal, the subject matter being only a trifling amount.

It is, of course, true that in the case of the issue of discretionary writs the Court will not as a rule exercise such a discretion in favour of a petitioner, if an alternative remedy is available. The present matter, however, does not seem to me to be analogous, as the question I have to decide is whether the case, in itself, is of sufficient importance to justify the granting of leave.

The respondent having elected to proceed by one of two alternative channels, it seems to me that the applicants are entitled to pursue the path that their opponent himself has chosen. That path provides, in a proper case, for an appeal from the decision of a Commissioner for Labour.

That being so, the only question that I have to determine is whether the case is of importance. It seems to me that the answer must be in the affirmative as, notwithstanding any possible procedures under section 40 of the Ordinance, the present matter which arises for determination is of considerable practical and general importance both to employers and employees. I therefore consider that this is a proper case for the granting of leave to appeal; and I so order.

Having regard to the respective financial position of the parties and bearing in mind the principles enunciated in the English authorities to which I was referred in the course of argument, it would seem to be fair that the applicants should bear, in any event, the costs incurred by the respondent up to and including the costs of the appeal for which I have given leave. And I so order.

Order in terms of prayer 2 of Motion.
Costs of Motion to be taxed and paid.
Order accordingly.

Solicitors: *Braddell Bros.; David Marshall.*